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**UTAH LABOR COMMISSION**

**JAMES S. WALLBERG,**

**Petitioner,**

**vs.**

**PIONEER DRILLING and LIBERTY  
INSURANCE CORP,**

**Respondents**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 06-0063**

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Pioneer Drilling and its insurance carrier, Liberty Insurance Corp., ask the Utah Labor Commission to review Administrative Law Judge La Jeunesse's denial of Pioneer's request for relief from default in the matter of James S. Wallberg's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Wallberg seeks workers' compensation benefits from Pioneer and Liberty. Because Pioneer and Liberty failed to respond to Mr. Wallberg's claim, Judge La Jeunesse entered default against them and awarded benefits to Mr. Wallberg. Pioneer and Liberty now ask the Commission to relieve them from default on the grounds that good cause existed for their failure to respond to Mr. Wallberg's claim.

**FACTS**

On January 18, 2005, Mr. Wallberg filed an application for hearing with the Commission's Adjudication Division. By this application, Mr. Wallberg sought to compel Pioneer and Liberty to pay benefits for an injury he had allegedly suffered while working for Pioneer on October 10, 2005. The application gave Pioneer's address in Vernal, Utah, where Mr. Wallberg had been employed at the time of his accident. The application also identified Liberty as Pioneer's insurance carrier.

Upon receipt of Mr. Wallberg's application for hearing, Commission staff verified that Liberty was, in fact, Pioneer's carrier. The Adjudication Division then mailed Mr. Wallberg's application to both Pioneer and Liberty and ordered them to file an answer to the application within 30 days. The Adjudication Division sent Liberty's notice on January 30, 2006, to 175 Berkeley Street, Boston, Massachusetts, 02117—the address previously established by the Division as Liberty's correct address of record. The Adjudication Division sent Pioneer's notice to the company's business address in Vernal, Utah.

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Neither Pioneer nor Liberty filed an answer to Mr. Wallberg's application, and on March 14, 2006, Judge La Jeunesse entered default against them. The Adjudication Division mailed Judge La Jeunesse's default order to Pioneer and Liberty at the same addresses that the earlier notices had been sent. Judge La Jeunesse then adjudicated Mr. Wallberg's claim without Pioneer or Liberty's participation and, on April 17, 2006, issued his order requiring Pioneer and Liberty to pay benefits to Mr. Wallberg.

On April 25, 2006, Pioneer and Liberty made their first appearance in this matter, in the form of a motion for relief from default. Specifically, they argued that relief from default was warranted because the Adjudication Division had mailed notice of Mr. Wallberg's application to incorrect addresses for both companies. They also argued they should be relieved from default in order to allow the proper adjudication of a separate claim Mr. Wallberg had filed against another company for injuries suffered in 2002.

Judge La Jeunesse denied the request of Pioneer and Liberty for relief from default. Pioneer and Liberty then filed the motion for review that is now before the Commission. In their motion for review, Pioneer and Liberty repeat the arguments previously submitted to Judge La Jeunesse.

**DISCUSSION**

The ultimate goal of Utah's workers' compensation system, and the Commission's adjudicative process, is to insure that workers' compensation benefits are promptly paid to eligible injured workers. In disputed cases, this goal is best accomplished through full and fair evidentiary proceedings and speedy decisions that resolve the merits of the dispute. The Commission's rules, in conjunction with the Utah Administrative Procedures Act, are designed to facilitate this adjudicative process by establishing procedures that the parties and the Commission can rely on.

In this case, Pioneer and Liberty were both respondents to Mr. Wallberg's claim for benefits. The Adjudication Division followed its established process of mailing notice of Mr. Wallberg's claim to Pioneer and Liberty. This notice clearly instructed each respondent of their obligation to file an answer to Mr. Wallberg's claim or risk entry of default. Neither Pioneer nor Liberty complied with this instruction to file an answer.

The respondents tacitly admit that they received the Adjudication Division's notice—Pioneer at its office in Vernal, Utah, and Liberty at its Boston, Massachusetts, office. The two companies' only defense is that the Adjudication Division should have mailed the notice to other offices in Texas and Maine, respectively. They argue that the Adjudication Division should have been aware of these alternative addresses because they had been provided to the National Council on Compensation Insurance ("N.C.C.I."), an organization that serves as a clearinghouse for organizing and transmitting workers' compensation insurance information.

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While it is true that Pioneer and Liberty's office addresses in Texas and Maine were listed with N.C.C.I. and, therefore, available to the Adjudication Division, the companies have failed to explain why the Adjudication Division should have used those addresses instead of the addresses the Division did use. With respect to Pioneer, the Division used the correct address of the office where Mr. Wallberg had actually been employed at the time of his injury. Pioneer then had 30 days to respond, either from its Utah office or from some other location. In any event, the 30-day response period was ample for Pioneer to channel the notice to the proper office. The same may be said with respect to Liberty. The Adjudication Division had previously established that Liberty's address of record was its Boston office. Even if Liberty's internal processes required that such matters be handled by its office in Maine, the company had 30 days to accomplish that.

In summary, the Commission concludes that Pioneer and Liberty each received proper notice of their obligation to file an answer to Mr. Wallberg's claim, but failed to take reasonable steps to do so. It would be contrary to the orderly administration of the workers' compensation system, as well as the fundamental purposes of that system, to delay resolution of Mr. Wallberg's claim under these circumstances.

Finally, the Commission notes Pioneer and Liberty's argument that, because Mr. Wallberg has another claim pending against a different employer for injuries suffered in an earlier accident, Pioneer and Liberty should be excused from their default in this case. The Commission sees no merit in this argument. Default judgment against Pioneer and Liberty in this case will not prevent the proper adjudication of Mr. Wallberg's other claim.

**ORDER**

In light of the foregoing, the Commission concurs with Judge La Jeunesse's denial of Pioneer and Liberty's request for relief from default. Accordingly, the Commission affirms Judge La Jeunesse's award of benefits to Mr. Wallberg. It is so ordered.

Dated this 8<sup>th</sup> day of February, 2007.

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Sherrie Hayashi  
Utah Labor Commissioner